

CITY COUNCIL SPECIAL MEETING PROCEEDINGS

Thursday, June 16, 2011

Early 5:30 p.m. start time

Study Session to convene immediately following special meeting.

1. CALL TO ORDER AND ROLL CALL

Mayor Osborne called the special, June 16, 2011 council meeting to order at 5:37 p.m. in Council Chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson and Council Members Ageton, Appelbaum, Becker, Cowles, Gray, Karakehian and Morzel.

A. **CONSIDERATION OF A MOTION TO SUSPEND THE RULES AND APPROVE HOLDING THE VOTE ON THE CONSENT AGENDA UNDER FINAL DECISIONS FOLLOWING PUBLIC COMMENT ON MOTIONS ON THE FLOOR. – 5:38 P.M.**

Council Member Gray moved, seconded by Morzel to suspend the rules and approve holding the vote on the Consent agenda under Final Decisions following public comment on motions on the floor. The motion carried unanimously 9:0.

ORDER OF BUSINESS

2. CONSENT AGENDA: (Vote to be taken after public comment under matters) – 5:38 p.m.

A. **CONSIDERATION OF A MOTION TO APPROVE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE DENIAL OF THE SITE REVIEW HEIGHT MODIFICATION APPLICATION FOR THE 855 JUNIPER AVENUE PROJECT. APPLICANTS/PROPERTY OWNERS: CHRISTOPHER FOREMAN AND LAURA MCCAIN-FOREMAN.**

Council Member Morzel moved, seconded by Gray to approve the findings of fact and conclusions of law for the denial of the Site Review Height Modification application for the 855 Juniper Avenue project.

3. PUBLIC HEARINGS: - 5:39 p.m.

A. **CONSIDERATION OF A MOTION TO APPROVE THE PURCHASE OF APPROXIMATELY 118 ACRES OF LAND LOCATED AT 38474 BOULDER CANYON DRIVE FROM THE BONNIE L. SCHNELL REVOCABLE TRUST FOR \$1,200,000 FOR OPEN SPACE AND MOUNTAIN PARKS PURPOSES.**

Jim Schmidt announced that the City closed on the Weiser property yesterday. He then provided a presentation on the Schnell property indicating access to the

property was up Boulder Canyon. The acquisition agreement included assistance in financing the bridge to the Schnell land which was washed out near the Red Lyon restaurant. The parcel was currently under contract and was a very good property and price. The purchase contract was scheduled to close near the end of September which allowed for plenty of negotiating time regarding the bridge. Should a mutually acceptable agreement not be reached, some alternatives were available: 1) the city could not go through with the purchase of the property and would lose \$5,000 in earnest money, 2) the city could assert its historical rights to access the property or 3) the city could look at building its own bridge. The preferred alternative was to negotiate an agreement with the property owner.

Council Member Gray asked if the red hatched properties on the map were the residences that would be retained. Staff confirmed this.

Council Member Ageton clarified the city had the right of first refusal if there were a sale on the 5 acre parcel should the Schnell's decide to sell that parcel.

Deputy Mayor Wilson asked about the roadway. Mr. Schmidt clarified there would be a 20 foot roadway/trail and it was approximately 10 feet from the centerline.

Council Member Appelbaum asked what type of development could occur on these parcels. Mr. Schmidt indicated the County would allow a single family residence on both parcels and there were already single family homes on each parcel. Council Member Appelbaum then asked for more information about the bridge. Mr. Schmidt indicated staff had put a number out to the property owner that the city would be willing to contribute to bridge costs and this was the same number that it would cost the city to build its own bridge. One 20-foot wide bridge access would go across Boulder Creek.

Council Member Karakehian asked why the right of first refusal wasn't included on both properties. Mr. Schmidt explained that the city was purchasing property only from Bonnie Schnell and not her sisters' property.

There being no speakers the public hearing was closed.

Deputy Mayor Wilson moved, seconded by Gray to approve the purchase of approximately 118 acres of land located at 38474 Boulder Canyon Drive from the Bonnie L. Schnell Revocable Trust for \$1,200,000 for Open Space and Mountain Parks purposes. The motion carried unanimously 9:0. 5:49 p.m.

4. **MATTERS FROM THE CITY MANAGER: - 5:50 p.m.**

A. **POLICY DISCUSSION REGARDING THE PURCHASE OF LONG'S GARDEN (CONSERVATION EASEMENT AND 1/3 ACRE IN FEE).**

This item was postponed from the June 7, 2011 council meeting.

City Attorney Brautigam introduced the item and presented Council with the questions from staff which were 1) Did Council wish the staff to pursue a conservation easement to preserve Long's Gardens? 2) If so, what elements of the letter of intent and draft conservation easement were important to maintain or change? And 3) If so, what funding options should be pursued?

Doug Newcomb then provided the presentation on the item outlining a map of the property. He noted the entire property, 25.1 acres including the house, was zoned agricultural. In April 2009, the Letter of Intent (LOI) was put into place to purchase a conservation easement on the property for \$4,700,000. The LOI and option to purchase the conservation easement would expire in March 2012. The purpose was to preserve the home and property and support the Growing Gardens organization, which leased the eastern portion of the property. Council direction was sought on the aforementioned questions presented by the City Manager. No funding options had currently been identified.

Council Member Morzel clarified with Mr. Newcomb that the tax value could change as the conservation easement effected the value of the property but this did not always occur. Mr. Newcomb then described how the conservation easement was valued.

Council Member Becker asked if the conservation easement went forward, who would administer it? Staff responded that typically Open Space and Mountain Parks administered conservation easements and no specific internal funding had been identified.

Council Member Gray asked about the process that OSMP used to monitor and administer conservation easements. Staff responded that they would perform a baseline study to identify the condition of the property including a full legal records search (the analysis was typically long with photo documentation, mapping etc...).

Mayor Osborne clarified that the City would expect to utilize the same process.

Council Member Becker clarified that a third party appraiser was used in 2008 for the right-of-way taking. She requested a copy of the appraisal. Mr. Newcomb noted that a potential funding source could be bond issuance. Council Member Becker asked why this parcel was being considered outside of the process that evaluates what the bond measure would fund.

City Manager Brautigam noted in February the Capital Improvement Strategy discussion took place. Over time staff had the idea to bond with no new taxes. The stakeholder group that would discuss what could be done on the November ballot,

would also discuss this item. However, it was not identified as a priority this year. The Council conversation tonight would help staff decide whether to ask the stakeholder group to begin considering this in August for the 2012 ballot.

Council Member Ageton asked about the precedent for the city purchasing a conservation easement outside of the OSMP program. Did a prior council set in motion the negotiations? Mr. Newcomb explained it was 2008 when the City approached Longs about the purchase. Open Space and Mountain Parks Director Mike Patton explained that negotiations were finalized in 2009 and the conservation easement agreement would be developed. This came up last August because the circumstances were unique.

Council Member Morzel asked if it was a foregone conclusion that a parking parcel would be there. Parks and Recreation Director Kirk Kincannon indicated it was not a conclusion, it still needed approval in the CIP. The plan in 2008 was for 33 spaces and since then, a traffic study found that there were some minor issues. Council Member Morzel asked if the Parks and Recreation Advisory Board and staff would do a priority look to see if there were other more critical Parks needs. Mr. Kincannon responded that this was done in the CIP. It was removed from 2012 as not being a high priority and at some point the issue of parking at North would need addressed. The cost of a structure would be disruptive of the neighborhood.

Council Member Karakehian asked a representative about the proposed building/lot for Growing Gardens. The gentleman responded that it was not a 28,000 square foot, 3-story building. He thought more like a 1500 to 2000 square foot building. Ideally there would be garages, a pumphouse, shade structures etc...which were all use by right in an agricultural zone. It all added up to about 13,000 square feet. They would like a facility for teaching and meetings. All were ideal things but the square footage number of 28,000 was not real or accurate.

Council Member Cowles commented that as interest in localization grew, there was no convenient place in the city to put this. Open Space and Mountain Parks generally dealt with rural properties for different purposes. Parks and Recreation had more intimate involvement with the property, growing gardens (cultiva) and the community. He noted a 1/3 acre parking lot was urban level development, even without development. If this was before Planning under site review there was no way staff would permit only 5 dwelling units on the property. The value was just as stated on page 4 of the conservation easement to protect the agricultural heritage of the property, demonstrate economic viability of small farm operations etc....He was in favor of pursuing the conservation easement but not contrary to the letter of intent. He would like to see a site specific approval for a development plan, and was concerned about preservation of oil, mineral and gas rights on the property.

Council Member Gray agreed with Council Member Cowles. She asked Tom Macy to talk about the timing on the family's part and what the path forward would be. Mr. Macy, with the Conservation Fund, a national non-profit organization, indicated that considerable time and money had been spent to get to this point. The family was together on one document, 98% completed. They could have this done in a

weekend.

Mayor Osborne asked if there would be a problem getting an appraisal looking specifically at the conservation easement value on the property. She was uneasy with how the value was determined. The appraisal would revisit the price and have an agreement that has a price, which the city negotiated.

Council Member Appelbaum asked what happened if the deal fell apart. Mr. Macy spoke to the kind of landowners they were and at some point, the property could eventually end up tied up in an estate scenario.

Council Member Gray was in favor of continuing on the current path, refining the growing gardens piece and asking the City Manager to bring back several funding options including Open Space funds and possibly looking to the County.

Council Member Karakehian agreed with Council Member Cowles. He was interested in having some final numbers brought forward, and would love to pursue conservation of the property. He was very interested in this moving forward. The valuation part had him stumped as it seemed high.

Council Member Becker expressed that sustainable agriculture was one of her top goals. She would like to see the current use continue and ensure improvements. The Growing Gardens acreage should be preserved, not necessarily the entire site. She asked for more information about the normal process used to preserve those values. She noted that Council also had to be guardians of the budget. There were lots of uses, non-profits and individuals in need for valid reasons. It was all about context. What was the city's role in preserving Growing Gardens? There were probably many alternative funding mechanisms. She wouldn't support the current valuation. She asked about the Farm Bill grant or a tax credit transfer. She hoped staff could define the goal then better understand the city's role. The appraisal valuation was too high and there were so many additional costs such as power lines etc.... She suggested staff look at other opportunities, partnership, land lease and other elements to protect the city's interests.

Mayor Osborne commented she was doubtful about getting a conservation easement agreement on the growing gardens parcel alone. The food localization piece had become the most important thing about the project. As the city added density everywhere, this was the one central place not developed and it seemed an important use of money. She agreed with Council Member Cowles that the building envelope and possibly square footage needed to be defined. She supported the City Manager in looking at funding options.

Council Member Appelbaum agreed with Council Member Becker's comments. He would like staff to look at other opportunities to locate these localization opportunities in the city. The new appraisal was critical. He did not want to be rushed into a decision. The funding should be considered in the 2012 CIP. He didn't not want funding taken from Open Space and Mountain Parks.

Council Member Morzel strongly supported Growing Gardens and the preservation of the property and its current uses for sustainable agriculture as it provided density relief. She hoped to preserve the Longs home as well in the historic timeframe. This was a once in a lifetime opportunity. She encouraged a variety of funding options be considered. She urged staff to move forward.

Deputy Mayor Wilson commented this was an iconic property for the City. He was worried about the funding first and foremost. It was not open space and Parks would love the property but it was low on the priority list. He suggested maybe this should be on the ballot the following year.

Council Member Ageton shared concerns with Council Members Becker and Appelbaum that the focus had to be in the larger context. There were significant needs across the community that made it hard to take this property and elevate it to a higher priority. She would put it in the que but was more than willing to have staff look at it. A new appraisal was definitely necessary. She shared the concern about finding a funding source and raising expectations about being able to purchase without knowing where the funds would come from. She asked how the community would rank this among other needs. This was part of a larger values competition. She suggested seeking the right of first refusal. Definitely not a priority for this year but supported staff looking at funding options.

Mayor Osborne summarized that there was a lot of agreement to move forward with negotiations on the conservation easement with a new appraisal and a lot of concern about how it would be funded.

Deputy Mayor Wilson asked staff to provide information about what the potential increase in property value for properties within 500 feet would be if it stayed agricultural land vs. developed.

MATTERS FROM THE CITY ATTORNEY:

A. COUNCIL GUIDANCE ON WHETHER TO MAKE PUBLIC THE COST MODEL FOR MUNICIPALIZATION. – 8:10 P.M.

City Manager Brautigam indicated a meeting among staff took place earlier that day to discuss work load related to municipalization/Xcel proposal over the next few weeks. The list of items staff would complete were:

Negotiating with Xcel

- 3 additional model runs with a variety of factors including interest rate, stranded costs and acquisition including smart grid. Three runs would be reasonable high case, reasonable medium case and reasonable low case.
- Review and respond to discrepancies raised on asset inventory and valuation
- Provide information on power purchase and transmission assumptions.
- Prepare a timeline of the municipalization process including decision points and off ramps

- Do the needed side-by-side comparison of the Xcel proposal and municipalization proposal.

Items that were not on the list as staff did not have adequate time were: adding debt load on other municipal utilities in the.

Deputy Mayor Wilson indicated he would like to know what the nonlinearities are in the model runs.

Staff indicated it would not reveal specific numbers due to negotiating position.

City Attorney Carr checked in with Council about making the costs public as handing out the model would not put the city in a good negotiating position. Council consensus was not to release the modeling numbers.

5. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL: - 8:30 p.m.**

A. **POTENTIAL CALL-UPS:**

1. **LANDMARK ALTERATION CERTIFICATE TO REHABILITATE AND ADD A REAR PORCH TO THE HOUSE AND MAKE SITE IMPROVEMENTS AT 403 HIGHLAND AVENUE IN THE MAPLETON HILL HISTORIC DISTRICT (HIS2011-00056). INFORMATION PACKET DATE: JUNE 9, 2011. LAST OPPORTUNITY FOR CALL-UP IS JULY 19, 2011. APPROVED BY THE LANDMARKS BOARD 5-0 WITH CONDITIONS.**

No action was taken on this item.

2. **SITE REVIEW FOR 2035 BALSAM DRIVE. INFORMATION PACKET DATE: JUNE 9, 2011. LAST OPPORTUNITY FOR CALL-UP IS JUNE 16, 2011. APPROVED 7-0 BY THE PLANNING BOARD.**

No action was taken on this item.

3. **USE REVIEW FOR 1680 BALSAM AVENUE. INFORMATION PACKET DATE: JUNE 9, 2011. LAST OPPORTUNITY FOR CALL-UP IS JUNE 16, 2011. APPROVED 7-0 WITH CONDITIONS BY THE PLANNING BOARD.**

No action was taken on this item.

6. **PUBLIC COMMENT ON MOTIONS ON THE FLOOR: - None.**

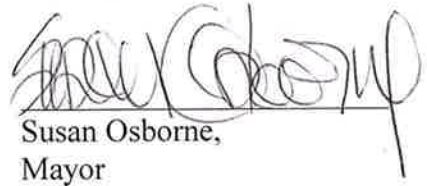
7. **FINAL DECISIONS:** Action on motions on the floor - 8:31 p.m.

Vote was taken on the motion to approve the findings of fact and conclusions of law for the denial of the Site Review Height Modification application for the 855 Juniper Avenue project. The motion carried unanimously 9:0. 8:32 p.m.


8. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 8:32 P.M.

APPROVED BY:


Susan Osborne,
Mayor

ATTEST:


Alisa D. Lewis,
City Clerk